

## **MINUTES**

### **MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON BUSINESS AND LABOR**

**Call to Order:** By **CHAIRMAN DALE MAHLUM**, on March 17, 2003 at 9 A.M., in Room 422 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Dale Mahlum, Chairman (R)  
Sen. Mike Sprague, Vice Chairman (R)  
Sen. Sherm Anderson (R)  
Sen. Vicki Cocchiarella (D)  
Sen. Kelly Gebhardt (R)  
Sen. Ken (Kim) Hansen (D)  
Sen. Sam Kitzenberg (R)  
Sen. Glenn Roush (D)  
Sen. Don Ryan (D)  
Sen. Carolyn Squires (D)

**Members Excused:** Sen. Bob Keenan (R)  
Sen. Fred Thomas (R)

**Members Absent:** None.

**Staff Present:** Sherrie Handel, Committee Secretary  
Eddie McClure, Legislative Branch

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: HB 174, 1/25/2003; HB 183,  
1/27/2003; HB 184, 2/24/2003; HB  
196, 1/29/2003

Executive Action:

**{Tape: 1; Side: A}**

**HEARING ON HB 174**

**Sponsor:** REPRESENTATIVE BILL THOMAS

**Proponents:** James Brown, Department of Labor and Industry  
(DLI)  
Holly Franz, Montana Society of Certified Public Accountants  
Roger Halver, Montana Association of Realtors  
Margaret Morgan, Independent Electrical Contractors

**Opponents:** NONE

**Informational Witnesses:** NONE

**Opening Statement by Sponsor:**

REP. BILL THOMAS, HD 93, Hobson, said HB 174 provides for the modification of licensing and examination requirements by professional and occupational licensing boards and programs. He discussed the benefits of the bill. He said this bill covers twelve occupations and professions and would enable them to catch up with common practices in the industry. He said they do not build their homes the same way as they did years ago and this bill gives flexibility to the statutes. He discussed a handout from the Department of Labor and Industry **EXHIBIT (bus56a01)**.

**Proponents' Testimony:**

James Brown, Department of Labor and Industry, rose in support of HB 174 **EXHIBIT (bus56a02)**.

Holly Franz, Montana Society of Certified Public Accountants, said her organization supports the provisions of the bill that apply to accountants.

Roger Halver, Montana Association of Realtors, said Section 7 of the bill will affect his affiliates the most, and he thinks this was a good housekeeping bill.

Margaret Morgan, Independent Electrical Contractors, said the changes in this legislation are positive and urged support of HB 174.

**Questions from Committee Members and Responses:**

No questions were posed by Committee members on this bill.

**Closing by Sponsor:**

**REP. BILL THOMAS, HD 93, Hobson**, said this is good legislation and urged support.

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**HEARING ON HB 196**

**Sponsor:** REPRESENTATIVE STAN FISHER

**Proponents:** Jim Brown, Department of Labor & Industry (DLI)  
Darlene Battaiola, Self  
Ed Dutton, Self

**Opponents:** Farrell Griffin, Self  
McRay Evans, Self  
Julie Mehling, National Cosmetology Association  
of Montana

**Informational Witnesses:** Brenda St. Clair, Department of Labor & Industry (DLI)

**Opening Statement by Sponsor:**

**REP. STAN FISHER, HD 75, Big Fork**, said HB 196 is the proposal to combine the Board of Barbers and the Board of Cosmetologists. He said it also uses the ability to use a third party to administer examinations for barbers who use the electrology provision and reduces the hours of study for the barber board license. He said the bill is a cost savings for both the licensee and the state. He said the majority of the changes are for barbers under chapter 30 and electrologists under Chapter 31 and 32. He said there were minor amendments in the House as clean up language.

**Proponents' Testimony:**

**Jim Brown, MT Department of Labor and Industry**, rose in support of HB 196 **EXHIBIT**(bus56a03) .

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**Darlene Battaiola, Self**, said this bill is combining two professions into one board that do very similar services. She said the board is designed to have professional individuals who

are there to serve the public and protect their safety and ensure that individuals are licensed that have the proper knowledge and expertise to serve the public in a safe and sanitary manner.

**Ed Dutton, Self,** said the state of Montana shut down the Barber School at the Vo-Tech in Missoula. He said the main reason it was shut down was the amount of hours it took to get a license. He stated there are only three other states that have these types of requirements. He said without a barber school and the 2000-hour requirement, Montana is hurting for barbers and felt this bill would be good for business for the state of Montana.

**Opponents' Testimony:**

**Farrell Griffin, Self,** said licensees under the board of Cosmetology in Montana are 5711 Cosmetologist, 725 Nail Technicians, and under the Board of Barbers there are 622 Barbers, 52 Estheticians, and 40 Electrologist. He said they are in no way trying to put the Barbers out of business or oppose their right to sit on the Board of Cosmetology but they do have concerns. He said there are over nine times as many cosmetologists and nail technicians as there are Barbers. He said this proposed bill would allow barbers to be represented equally to cosmetologists. He said this proposed bill would reduce the number of hours of training for barbers to become licensed and he felt the hours should remain the same. He said the main reason is hairdressers are cutting men's hair and they are doing a good job. He said if the hours are lowered to 1500 then there will be many people who will work in salons that are doing the same thing that hair dressers are doing today only with less hours and they do not feel that is fair. He felt Barbers already pay a lower fee for licenses because they do not pay a rental license. Most cosmetologists who work in a salon pay for a cosmetologist license, booth rental and a salon license. He said they propose that none of the licensees under the board pay for a booth rental license if barbers do not pay for a booth rental license currently.

**{Tape: 1; Side: A; Counter: 23.5}**

**McRay Evans, Self,** said in 1960, barbers had rules that said beauticians could not cut hair on Monday or before 8 a.m. in the morning and they would fine them if it were after 5 p.m. He said they do not want to have the barbers to have three representatives on the board because there are more beauticians than barbers. He felt there should also be an odd number on the board.

**Julie Mehling, National Cosmetology Assoc. of Montana and Self,**

rose in opposition of **HB 196**.

**Questions from Committee Member and Responses:**

**SENATOR VICKI COCCHIARELLA** asked if the National Cosmetology Association of Montana was involved in creating this bill. **Ms. Mehling** said no. **SEN. COCCHIARELLA** asked **Ms. Mehling** if she had ever served on the state board. **Ms. Mehling** replied in the negative.

**SEN. COCCHIARELLA** asked where this bill came from and why. **Brenda St. Clair, Department of Labor and Industry**, said this is the combination of a two-year study that a committee of the professions of the boards met and talked about and is a trend happening across the country. **SEN. COCCHIARELLA** asked about the concerns that the opponents had on the representation and the fees. **Ms. St. Clair** said the membership of the board was tossed around quite a bit. She said under the current set up there are two boards, one being the Board of Barbers and the other the Board of Cosmetologists. She said the Barbers have four members and Cosmetologists have seven. She said the committee decided that three from each board would represent this new board plus there would also be one from the electrologist, manicurist, or esthetician and two public members. **SEN. COCCHIARELLA** asked who were the members of the committee. **Ms. St. Clair** named some of the various members that sat on the committee both being from the Board of Cosmetologist and the Board of Barbers. **SEN. COCCHIARELLA** asked if the makeup was more cosmetologists than barbers. **Ms. St. Clair** said there was equal representation.

**SENATOR MIKE SPRAGUE** said there are nine on the committee, so it is not even. **MS. St. Clair** said the bill calls for nine members. **SEN. SPRAGUE** said he has been a licensed Barber since 1960, but in the qualifications it says a person must be 18 years old and have a high school diploma or its equivalent of a GED and does the board consider this as a high school equivalent. **Ms. St. Clair** said yes that was correct. **SEN. SPRAGUE** wondered if they needed the GED in there as he didn't know what else qualified as an equivalent. He said he would like to make sure that a person who did not finish high school could still qualify to cut hair. **Ms. St. Clair** said those requirements currently exist under cosmetologists and they do have a rule that a person may petition the board for an exemption and she read those requirements. **SEN. SPRAGUE** said he does not understand this turf battle because they are all dealing with the same issues of the head, scalp diseases, etc. **Ms. St. Clair** said the committee felt they would like to combine the boards because they are like professions and deal with similar issues. She said in doing so though they wanted to recognize barbers because their numbers have been declining. She

read page two, line 26, and said the Governor may appoint someone if there are no barbers to serve on the board. **SEN. SPRAGUE** said he did not understand why it is five years to be on the board and felt this was a long time. **Ms. St. Clair** said they felt it takes at least two to three years just to understand the process.

**SENATOR DON RYAN** said on page two, lines 21-25, does that read properly with not more than two members of the board may be members of or affiliated with a school. **Ms. St. Clair** said they did amend that part in the House and perhaps they want clarification that it is a school that is regulated under the definition on page 7.

*{Tape: 1; Side: B; Counter: 9.5}*

**SENATOR SHERM ANDERSON** asked how many hours are required to become a cosmetologist. **Ms. St. Clair** said to be a full-fledged cosmetologist is 2000 hours. **SEN. ANDERSON** asked how many hours is the equivalent of what a barber does. **Ms. St. Clair** said this bill is to reduce it to 1500 hours. She said prior to 1982 it was 1500 hours and there was a movement by the barbers to change it to 2000 hours thinking that all of the surrounding states would follow suit, however, it did not and now it is has become a barrier.

**SENATOR CAROLYN SQUIRES** said if someone was appointed by the Governor for 5 years to serve on the committee the Legislature would not have the ability to confirm until they were into their third year. **Ms. St. Clair** said she did not think this would create a problem. **SEN. SQUIRES** asked if there are different classifications of barbers and cosmetologists like there is in nursing, for example, and would the board need to have people from these different qualifications. **Ms. St. Clair** said a barber is a barber and a cosmetologists is a cosmetologists.

**SEN. COCCHIARELLA** asked about cosmetologists paying for a booth rental license and is that fair that the barbers do not have to. **Ms. Battaiola** said as she understands the bill the barbers would now have to purchase a booth rental license.

**SEN. COCCHIARELLA** asked where is this in the bill. **Ms. St. Clair** said the fees that are paid currently by a barber are \$45 annually. She said the cosmetologist pays \$45 bi-annually. She said currently if a barber and a cosmetologists wanted to set up shop in the same building under the same guidelines the cosmetologist would need a cosmetology salon license and the barber would need a barber shop license. She said under the provisions of this bill they would need only one license whether it was called a salon or a shop. **SEN. COCCHIARELLA** asked if

there was a fiscal note. **Ms. St. Clair** said yes there was.

**{Tape: 1; Side: B; Counter: 15.9}**

**SENATOR GLENN ROUSH** asked with the combined license would the \$45 be bi-annual or annual. **Ms. St. Clair** said that was an assumption made in the fiscal note. **SEN. ROUSH** said in the bill it allows for an inspection and how often do they get inspected. **Ms. St. Clair** said the law allows for one each year.

**SEN. SPRAGUE** said barbers are an independent lot, they are specialized to some degree but most are general in what they do.

**SEN. SQUIRES** said what she meant by specialized was if someone was from the school, another person was the owner-operator, and another person rents in the shop etc., how would they be separated out on this new board.

**SEN. COCCHIARELLA** said she received several emails pertaining to facials and scalp massages and would this go into other practices or could they be a barber, etc. **REP. FISHER** said he knew very little about the profession. His main concern was that if someone was running a barbershop and he wanted to take some time off, if a barber from Idaho came in with only 1500 hours he wouldn't be able to get a license. He said it is very difficult to get people to move to smaller communities and work if they have to have 2000 hours of schooling, etc.

**CHAIRMAN DALE MAHLUM** said if he goes to a barbershop where there is a lady what do they call her. **Mr. Griffin** said she is a licensed barber and is called a barber. **CHAIRMAN MAHLUM** asked what is a cosmetologists. **Mr. Griffin** said they do not display the red, white, and blue sign. **CHAIRMAN MAHLUM** asked if a barber is encompassed under the title of a cosmetologist. **Mr. Griffin** said yes as an association that is what they feel and it should be a division of cosmetology just like a manicurists, esthetician, etc. **SEN. MAHLUM** asked what is an esthetician. **Mr. Griffin** said they are skin care specialists.

**SEN. SPRAGUE** said barbers are not trained in a lot of the cosmetology field like doing perms, etc.

**{Tape: 1; Side: B; Counter: 25.6}**

**Ed Dutton** said when a barber receives 2000 hours from barber school they are considered a barber/stylists. He felt there is not a lot of difference between a stylist and a cosmetologists. He stated there is no longer any barber union. He felt there is a

big need for the old-fashioned barber and barbers are still going to keep their old rules and regulations as well as cosmetologists even with the combined board.

**SEN. SQUIRES** said barbers who came out of the Vo-Tech in Missoula with the 2000 hours were trained to perm and color hair.

**Closing By Sponsor:**

**REP. FISHER** said there is a need for this board and the combination of it.

**HEARING ON HB 184**

**Sponsor:** REPRESENTATIVE BILL WILSON

**Proponents:** John Morrison, State Auditor & Insurance Commission  
Steve Gallus, Representative, HD 35  
John J. Willoughby, Self  
Pat Callbeck Harper, AARP  
Anne Marie Reid, Self  
Matt Leow, MT Public Interest Group  
April Fife, Self  
Henry Buhr, Philipsburg  
Vicki Cocchiarella, Senator, SD 32  
Roger McGlenn, Independent Insurance Agents Association of Montana

**Opponents:** Greg VanHorssen, State Farmers Insurance  
Jacqueline Lenmark, American Insurance Association  
John Metropoulos, Farmers Insurance and NAII

**Informational Witnesses:** Jill Gerdrum, State Auditor's Office

**Opening Statement by Sponsor:**

**REP. BILL WILSON, HD 46, Great Falls,** said this bill deals with credit scoring. He said credit scoring is a number that insurance companies assign to consumers to gage potential risk on claims for auto or property insurance. He said the number ranges between 300 to 850 with 300 being a poor credit score. He said a poor credit score can mean that insurance policies could be cancelled or non-renewed and premiums could rise. He said some of the factors are too many balances on credit cards and it doesn't matter even if you pay your credit card on time etc. it is the



balances that matter. He said also insufficient length of credit or no credit can be a factor. He said there are many people like students and the elderly who do not use credit. He stated medical bills also affect the credit score. He said types of credit cards such as a gas cards are favorable but a store card is unfavorable, etc. He stated home and auto scoring is also different and may be favorable in one instance, but not in the other. He said people that are paying their insurance premiums on time and people that do not have moving violations, etc. are finding that insurance companies are giving them a low credit score and their premiums are rising. He read an article out of the Great Falls Tribune. He also handed out a copy from the Montana State Auditor's Office of emails concerning credit scoring. **EXHIBIT (bus56a04)** He discussed the bill, page 2, new section 2, line 19. He also read page 4, line 7, new section 3. He said he called his insurance company to try and get a credit score and he got a C rating. He asked them how they came up with that and they could not tell him. He said page 4, new section 4, line 12 is also important language. He also discussed new section 5 line 27, page 4 and page 5, new section 6, line 10.

**{Tape: 2; Side: A; Counter: 14.5}**

**Proponents' Testimony:**

**John Morrison, MT State Auditor and Insurance Commission**, rose in support of **HB 184**. **EXHIBIT (bus56a05)** He passed out letters of support for **HB 184**. **EXHIBIT (bus56a06)** He also read some emails from people around the state who are upset over credit scoring. **(EXHIBIT 4)** He said there was a bill in the House that was defeated that would of banned credit scoring and some states are banning credit scoring altogether. He said this bill is the middle point and says that an insurer cannot cancel or non-renew personal insurance based on credit history and they cannot deny a person insurance based on credit history if that is the only thing used. He also explained some of the criteria that cannot be used when determining insurance rates, etc. **(EXHIBIT 5)**. He said they do not dispute that there is a connection between people's credit history and their risk when buying an auto or homeowner's claim. He said studies show that people who do not pay their bills get in more car wrecks, etc. He said this is a national problem and 33 states have pending legislation and 3 states do not regulate it at all and 4 states have banned credit scoring altogether. He said some people are claiming that companies are using credit scoring because they want to learn about people who are not good prospects for marketing financial insurance products. He said insurance companies, banks and investments companies are now merging and moving into each other's markets. He said they have too many people who are not insured drivers in

the state now and they do not need to add to that number. He said they are also studying discrimination issues and whether credit scoring is related to racial discrimination. He said if this study concludes that there is racial discrimination because of credit scoring then it would probably be banned nationwide.

**{Tape: 2; Side: B; Counter: 0.5}**

**REP. STEVE GALLUS, HD 35, Butte,** said if the industry knew everything about a person and when they went to bed, what their medical history was, what they ate, etc. then this might be justifiable. He said when the Constitution was written there was a privacy clause written into the Bill of Rights and privacy is essential to a free and healthy society and that right shall not be infringed unless there is a compelling state interest. He said there is not a compelling state interest to let the insurance industry continue this practice. He said the industry will argue that it is a useful tool, but it does not correct the privacy issue.

**John J. Willoughby, Self,** said this bill is important for insurance consumers of Montana. He used an example of a client that came into his office to apply for an insurance policy and the ramifications to get that policy.

**Pat Callbeck Harper, AARP,** said their organization is concerned about this practice that insurance companies perform. She said credit scoring is used to determine 90 percent of all consumer credit decisions in the United States. More than 90 percent of insurance carriers use credit data for insurance scoring purposes. She said they are concerned about those consumers who use cash and the impact of this practice on them. She said many older women who have not had credit cards in their names or loans may not have a favorable credit score even if they are financially stable. She said there is also concern between retirement income and employment income and how that affects credit scoring. She said they have also had complaints from consumers that they cannot get their credit score out of an insurance agency or they have to pay for it. She felt this bill helped to strengthen consumer protections, etc. She said they would like to have a policy that would require credit-reporting agencies to disclose credit scores and have it be a part of the credit report because right now the consumer has to go after it. She said they would also like a state law that would distinguish between retirement and employment income. She said in addition they would like it if consumers could get, free of charge, at least one report on their credit score per year. She said, however, they realize that this bill is a compromise and support it as a move in the right direction.

**{Tape: 2; Side: B; Counter: 8.5}**

**Anne Marie Reid, Self,** rose in support of **HB 184**. She said often times when you walk into a store you are enticed to fill out a store card and get 20 percent off. She said the problem is though that many stores do not tell you it will go against your credit. She said when a person shops around for an insurance policy they need to establish a credit score. She said she can understand needing to know a driving record, etc. that would show any claims but what she does not understand is how paying bills has anything to do with her driving. She realizes that there are statistics that show that not paying bills has something to do with a person's driving but if they are going to use this then what will they use next, gender, hair color, marital status, etc.

**Matt Leow, MT Public Interest Research Group,** said consumers are forced to play a game, which they don't know the rules of because of industry secrets. He said he does not know why the insurance industry is so opposed to this as it is a public relations nightmare. He said that the national auto agent reliance recently issued a statement that showed credit scoring was unreliable, inaccurate, and against public interest. He felt that credit scoring does more harm than good to the industry and consumers.

**April Fife, Self,** said about four years ago her husband and her had a child and for certain reasons their insurance decided not to pay their medical bills. She said they started paying the hospital and then her husband was laid off of work and they were turned over to a collection agency. She said a few months later their insurance premiums were raised to over 40 percent and they had never had any tickets, claims, etc. She said she investigated and over the last six months their credit rating went from a D to a J for their insurance policy. She said the insurance company did finally pay their medical bills and they were able to get their medical collection taken off of their credit. She said she assumed that their premiums would go back down but their credit score remained the same and the premiums did not go down. She said the insurance company could not tell her what made up the criteria for their credit score because it was personal and confidential information about her family. She said recently they bought a new house and started shopping for better rates for house insurance and went to several lenders looking for the right mortgage rates. She said the insurance companies told her that their debt to income ratio was too high and this is why they had high premiums, etc. She said she is being penalized for trying to buy a home and shop around for insurance. She felt it was wrong to be penalized for having good credit and no credit or the wrong kind of credit.

**{Tape: 2; Side: B; Counter: 18.1}**

**Henry Buhr, Philipsburg,** said insurance companies do not sell their product on credit and they should not have a reason to check a person's credit. He said he was injured in a logging accident and was not insured because it was his own truck and was not covered under worker's compensation. He said he had to sue the contractor because his medical bills exceeded over \$150,000. He said since that time his insurance has increased from \$700 to over \$2000. He said they are trying to rebuild their credit with credit cards and loans and they have never made one late payment but their premiums continue to rise.

**{Tape: 2; Side: B; Counter: 21.7}**

**SEN. VICKI COCHIARELLA, SD 32, Missoula,** handed out an exhibit about insurance premiums. **EXHIBIT (bus56a07)** She said she had learned that if a person had too many credit cards through the process of credit reporting from too many companies it would be a bad thing for your credit score. She said she has gotten rid of all of her credit cards from retail stores because of the inaccurate reporting to credit companies. She felt they could not win whatever they do when it comes to credit. She said the list that is on page 3 of the bill is the beginning to protecting consumers in Montana. She said they have heard from the proponents today that there are companies out there that do not use credit scoring and felt that they needed to be used. She said the only protection consumers have from this unfair practice is to find another insurance company who will treat them fairly.

**Roger McGlenn, Industry Insurance Agents of Montana,** said they support this legislation and the regulation of credit information and history in the insurance underwriting process. He said agents are very concerned with credit scoring and how insurance companies are using it. He said agents need to know how this credit history is being used so that they can advise their clients on how to deal with credit scoring situations.

**{Tape: 2; Side: B; Counter: 29.2}**

**Opponents' Testimony:**

**Greg VanHorssen, State Farmers Insurance,** said they believe this bill goes too far in restricting the use of this important tool. He said insurers are in the difficult business of trying to predict the future and they need to know what type of risk they are representing. He said the price of the product is determined by the cost of providing the product. He said premiums are

determined by what a person's claims will look like in the future. He said the ability to predict risks that an individual presents allows an insurer to set premiums accurately and competitively. He said this bill takes away that tool and the ability to predict risk. He said credit information has been used for decades in respect to lending decisions. He said about ten years ago some carriers determined that a person's use of their finances and credit information was also a very important predictor of risk for property and casualty insurance. He said there are many small insurance companies in Montana that have to buy the service of credit scoring and the ability to get a credit report. He felt this service was very important to those companies to determine a client's risk. He said **HB 184** would make it inadvisable to use credit information in the decision to insure an individual. He said it would take away a very important tool in setting premiums and rates as low as possible. He said this is a competitive business and they are not using this product to find a way to increase premiums. He said they have driving records and they use them to set rates but they are not as predictive as credit information. He felt companies' use this information as a benefit to insurers. He said if someone comes to State Farm and they have a marginal driving record and if that company has access to other predictive information such as credit scoring that company can use that. He stated if a client's finances are in good standing they would get a good premium. He said insurance would be available because of good finances vs. it being denied with a poor driving record. He felt this bill seriously limits or takes away the insurer's important risk assessment tool and makes insurance less available to the state of Montana.

*{Tape: 3; Side: A; Counter: 9.2}*

**Jacqueline Lenmark, American Insurance Assoc.**, passed out a study from the University of Texas concerning the relationship between credit history and risk of loss. **EXHIBIT (bus56a08)** She said in current law any decision based only on a person's credit score is prohibited. She said discrimination in Montana based on gender, race, religion and age are already prohibited. She also passed **EXHIBIT (bus56a09)** out a comparison between SB 349 and **HB 184**. She said they would prefer not having passage of this legislation this session as they would like to have more guidance from the National Assoc. of Insurance Commissioners. She said if they cannot wait then they would rather have SB 349.

**John Metropoulos, Farmers Insurance and NAII**, said they understand that there is concern and the need to erase any sexism, racism, or incomism that might be involved in credit scoring. He stated credit scoring is a very valuable tool and it

should not be eliminated. He felt SB 349 is a far more superior bill compared to **HB 184**. He said if section 1 and 2 are compared in **HB 184** they appear to be in conflict in each other. He discussed previous testimony from John Morrison. He also discussed some of the ramifications of SB 349 and how the bill appears to be better than **HB 184**. He said the issue into inquires into one's credit score is addressed in SB 349, **HB 184** does not address this issue and all credit scoring is prohibited. He said concerning erroneous credit reporting, SB 349 explains it in section 6. He read section 5, in **HB 184** and felt this did not explain erroneous credit reporting. He said insurance companies are not out to get only the best customers. He said with the passage of **HB 184** direct insurers could pre-screen potential customers because the federal law of fair credit reporting has a provision for pre-screening. He said insurance companies would be able to market their product to the best customers and ignore everyone else. He said there was also discussion of racial discrimination with credit scoring and felt SB 349 did a better job of dealing with that in section 5.

*{Tape: 3; Side: A; Counter: 29.7}*

**Questions from Committee Members and Responses:**

**SEN. SPRAGUE** wondered how long ago it was that the list of complaints had been compiled (**EXHIBIT 4**). **Jill Gerdrum, State Auditor's Office**, said they had the question on their website for about 18 months and it was printed off at the beginning of the session. She said they also had several other complaints not on the website. **SEN. SPRAGUE** said it was referred to that there were 100 complaints but there are only 63 and many of them are not complaints but inquiries. **Ms. Gerdrum** said in the house hearing they did an accurate count and there were 104.

**SENATOR KEN HANSEN** said it was mentioned that credit scoring is a tool for not increasing premiums and lowers the premiums for a competitive market. He said in the handout from the state auditor's office the emails are all complaints for having credit scoring and no thank you's or support for it. He said if that was true then the rates would be coming down and they would be hearing positive results. **Mr. Vanhorssen** said it is the nature of the process that when someone has a complaint they always hear that first vs. the good side. He said most people do not know why their premiums are going up or not rising as quickly because of credit scoring. He said premiums are not going down and there are many reasons for that. He said this is one more tool that can allow insurance companies to make the decision to insure somebody in the first instance or not and it helps to keep those rates from rising so quickly.

**SENATOR GLENN ROUSH** said they have heard testimony about the consumer not being able to get a credit report from their insurance company, etc. He asked why are those insurance companies not providing credit history and scoring. **Mr.**

**Vanhorssen** said State Farm has developed its own formula and it sends notices to its customer and how they use credit information and why they use it. He said they also try and help consumers keep their credit information positive. He said they do not want local agents to have credit information because they feel it would make their customers uncomfortable if their neighbors knew their credit history, etc. **SEN. ROUSH** asked why do they not give it to the consumer. **Mr. Vanhorssen** said everyone in this room has access to their credit report for free through many avenues. He said when State Farm makes a decision for premiums, etc. based on a credit report that information is provided to the consumer and he felt many companies do the same thing.

**SEN. ROUSH** asked if the Auditor's office had the authority to enforce policy when a complaint comes to their office from a consumer. **Mr. Morrison** said they have the authority to enforce existing law and it says that credit scoring cannot be the sole factor. He said if the company could demonstrate that there was something else taken into consideration then current law does not prohibit that. He said right now there is no way to prove that a company is using credit scoring solely. **SEN. ROUSH** asked if a consumer got a bad rating and wasn't justified in getting that bad rating from an insurance company that the liability issue may be the problem and is this why the insurance companies are opposing this bill. **Mr. Morrison** said he did not think that was the rationale. He said this bill provides that if inaccurate information is used to increase premiums and the consumer demonstrates to the company through dispute resolution then the company has to pay the consumer the difference between what they were charged and what they should have been charged. **SEN. ROUSH** asked about new section 7, page 5 and what it means. **Mr. Morrison** said the purpose of the indemnification provision is to say that an agent will not be held liable.

*{Tape: 3; Side: B; Counter: 12.5}*

**SENATOR SHERM ANDERSON** said there was the comment that this was intended to keep poor people from being kicked out of insurance. He felt this statement meant income was being used strictly. **Mr. Morrison** said he did not mean to suggest that the purpose of this bill was to keep poor people from being kicked off insurance. He said economic redlining is being discussed and studied and they

have conflicting information. **SEN. ANDERSON** asked if he was aware of any cases in the state where income was used. **Mr. Morrison** said he did not think insurance companies used income but the question is that by using credit that it falls more heavily on lower income people than on higher income people. **SEN. ANDERSON** asked if there was anything in this bill that prohibits the use of income. **Mr. Morrison** said not directly and they would not have an objection to an amendment addressing this issue. He felt there were other provisions in law that would prevent insurance companies from using income as criteria. **SEN. ANDERSON** asked what is the purpose of Section 8. **Mr. Morrison** said the rule making authority that is included in this bill is simply there so that between this session and the next if there are particular issues that they are not foreseeing right now then they have the latitude to do that. **SEN. ANDERSON** said this specifically spells out rules to enforce the provisions in Sections 1 thru 8. **Mr. Morrison** said from a logistical standpoint if the people in their department need further guidance and rules in order to do their work then they would look at that and take public comment, etc.

**Closing by Sponsor:**

**REP. WILSON** said it is no surprise that the insurance companies are against this issue as they have some decent points. He said they need to deal with the issue of credit scoring. He said if they don't pass something then they are sending a message to the consumer that this is how they are going to be treated with higher premiums, etc. He asked the question of what does credit history have to do with predicting the risk that a tree will fall on a person's roof and require repairs and what would it have to do with an uninsured motorists who runs a stop sign and hits someone, etc. He said there is a huge uninsured problem in this state and credit scoring is one major factor that prohibits people from getting insurance. He said Washington state passed similar legislation last year and there have not been any companies that have left the market as a result of this legislation. He felt this bill was a middle of the road bill that would help the consumer and the insurance companies.

***{Tape: 3; Side: B; Counter: 23.7}***

**HEARING ON HB 183**

**Sponsor:** REPRESENTATIVE DONALD STEINBEISSER

**Proponents:** Claudia Clifford, State Auditor's Office



**Tanya Ask, Blue Cross, Blue Shield  
Mary Williams, Chief Capitol Cities Task Force,  
AARP**

**Opponents: Frank Cote, Health Insurance Association of  
America  
Denise Pizzini, New West  
Jacqueline Lenmark, National Association of Life  
Insurers**

**Opening Statement by Sponsor:**

**REP. DONALD STEINBEISSER, HD 100, Sidney, read the title of HB  
183 and read testimony from the state auditor's office  
EXHIBIT (bus56a10)**

**{Tape: 4; Side: A; Counter: 1.8}**

**Proponents' Testimony:**

**Claudia Clifford, State Auditor's Office, said section 2 and 3  
are very important because they deal with notification of rate  
increases, changes in benefits, and cancellation of coverage. She  
stated for group coverage it is 60 days and individual is 45  
days. She said section 3 allows employee notification when a  
group claim is cancelled. She said they also changed the timeline  
for employers not paying and the policy being cancelled. She  
explained section 1 of the bill. She said if a person leaves an  
insurance company they have to provide documentation of how long  
that person was covered under that plan and this tells the next  
company whether they can close on a person's pre-existing  
conditions, etc. She felt federal law as well as state law  
requires this certificate of creditable coverage. She said this  
portability right is 63 days and many companies have been issuing  
these certificates without that information. She passed out two  
letters concerning this problem. EXHIBIT (bus56a11)  
EXHIBIT (bus56a12) She said they would also like to have forms of  
approval where the carrier shows them their certificate of  
creditable coverage form and they would approve it ahead of time.  
She said it can be done electronically and they approve thousand  
of forms every year. She discussed section 5, 6, and 7 of the  
bill.**

**Tanya Ask, Blue Cross/Blue Shield of Montana, passed out some  
amendments that they would like changed in the bill  
EXHIBIT (bus56a13). She said any time there are additional  
protections added there is the possibility of adding cost also.**

She said with the cancellation notification of non-payment of premium, if an employer fails to pay, the insurance company must give 15 days notification and notify the employees. She said if they are not paid under this bill they are still required to provide the coverage for those employees and someone will have to pay for that coverage. She discussed section 6 of the bill.

**{Tape: 4; Side: A; Counter: 11.9}**

**Mary Williams, Chief Capitol Cities Task Force, AARP**, passed out testimony in favor of **HB 183. EXHIBIT (bus56a14)**

**Opponents' Testimony:**

**Frank Cote, Health Insurance Assoc. of America**, said his concern is with section 1 of the bill with the certificate of creditable coverage. He said under subsection 3, (c), most insurance companies are not following the rules and they are not being enforced. He felt that a bulletin needed to be sent to the insurance companies to let them know the law or that there needed to be some enforcement. He said if these forms are not sent out in a timely manner or not sent out at all then they are in violation with either Montana State Law or with the federal law. He discussed some amendments that they would like to have in the bill.

**Denise Pizzini, New West**, said there have been problems in the past with issuing certificates of creditable coverage and health carriers are responsible and the victim of that. She discussed the 63-day period and some of the problems that may arise. She felt that prior notice of the 63-day time frame when they terminate employment would be a better idea vs. having the 63-day time frame run from the time of issuance.

**Jacqueline Lenmark, National Assoc. of Life Insurers**, said the certificate of creditable coverage, section 5 of the bill, line 5, page 5 would protect the consumer on this issue. She felt the amendments would help to alleviate that problem.

**{Tape: 4; Side: A; Counter: 21.3}**

**Questions from Committee Members and Responses:**

**SEN. SPRAGUE** asked if a person was notified about their termination of insurance and they had a 15-day grace period is there language that explains coverage is granted as long as premiums are paid. He said if a person was notified, he felt it would encourage people to pay their claims. **Ms. Ask** said that was correct, but there is a problem when the employer takes a

portion of the employees check to pay the premium. She said if the employer doesn't pay though then the department would like to make sure that the employee who has had their portion taken out of their check get adequate notice that their insurance may terminate. **SEN. SPRAGUE** said if the employees have paid their portion there should be some way the employer cannot get out from under paying the premium, etc. **Ms. Ask** said the problem comes up that the employee, while they have had money taken from their check is only paying a portion of the premium and the employer is paying the other part. **SEN. SPRAGUE** asked if they had recourse to the employer later on, even if it is months afterward, for forfeiture claims, bankruptcy, etc. **Ms. Ask** said yes, they do because they would have already derived the benefit of the contract and they would have been in violation of that contract and sometimes they can collect and other times they do not.

**SEN. ROUSH** asked about the recommendation of the amendments for this bill. **Ms. Clifford** said currently companies are required to have these certificates and Montana law requires them to do more and that is not happening. She said they have had to take administrative action against companies for not following the rules of insuring certificates, etc. She said having it in law is not good enough and they would like to take it to the next step and approve the form ahead of time without consumers being harmed. She said they are willing to take on the extra work and feel it will be quick and easy.

**SENATOR KELLY GEBHARDT** asked what **Mr. Cote** felt. **Mr. Cote** said many of these certificates are going beyond 60 days, which is the law, and the department cannot keep up with the forms that they have already.

**Closing by Sponsor:**

**REP. STEINBEISSER** said the auditor's office has been short one staff member and they are currently hiring someone and this should cover the problem of them getting these certificates done. He said with the high cost of insurance it is very important that people are covered.

**ADJOURNMENT**

**Adjournment:** 10 A.M.

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SEN. DALE MAHLUM, Chairman

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SHERRIE HANDEL, Secretary

DM/SH

**EXHIBIT** (bus56aad)